

## § 1421.6

## 7 CFR Ch. XIV (1-1-04 Edition)

molds, or other substances poisonous to humans or animals. A commodity containing vomitoxin, aflatoxin or *Aspergillus* mold may not be pledged for a loan made under this part, except as provided by CCC in the marketing assistance loan note and security agreement.

(2) The determination of class, grade, grading factor, milling yields, and other quality factors, including the determination of type, quality, and quantity for peanuts:

(i) With respect to barley, canola, corn, flaxseed, grain sorghum, oats, rice, soybeans, sunflower seed for extraction of oil, wheat and other commodities designated by CCC, shall be based upon the Official United States Standards for Grain, United States Standards for Whole Dry Peas, Split Peas, and Lentils for dry peas and lentils, United States Standards for Beans for small chickpeas and the United States Standards for Rice as applied to rough rice whether or not such determinations are made on the basis of an official inspection.

(ii) With regard to mustard seed, rapeseed, safflower seed, flaxseed and sunflower seed used for a purpose other than to extract oil, shall be based on quality requirements established and announced by CCC, whether or not such determinations are made on the basis of an official inspection. The costs of an official quality determination may be paid by CCC. The quality requirements that are used in administering marketing assistance loans and loan deficiency payments for the oilseeds in this paragraph are available in USDA State and county FSA service centers.

(iii) With regard to farm-stored peanuts, shall be determined at the time of delivery to CCC by a Federal or State Inspector authorized or licensed by the Secretary.

(d) Eligible wool and mohair must:

(1) Have been produced and sheared from live sheep and goats, of domestic origin and located in the U.S. for a period of not less than 30 calendar days prior to shearing.

(2) Be of merchantable quality deemed by CCC to be suitable for loan and must have been shorn in the United States.

(e) When certifying acreage on farms in which an interest is held, the producer must provide acceptable evidence of the commodity from which the county committee may determine whether the eligible production claimed by the producer is reasonable for the production practices on such farm or similar farms in the same county; or have either the eligible or ineligible commodity measured by a representative of the county FSA service center at the producer's expense, before commingling.

### § 1421.6 Beneficial interest.

(a)(1) To be eligible to receive marketing assistance loans or loan deficiency payments, a producer must have the beneficial interest in the commodity that is tendered to CCC for a marketing assistance loan or loan deficiency payment. The producer must always have had the beneficial interest in the commodity unless, before the commodity was harvested, sheared or slaughtered in the case of unshorn pelts, the producer, and a former producer whom the producer tendering the commodity to CCC has succeeded, had such an interest in the commodity. Commodities obtained by gift, barter or purchase shall not be eligible to be tendered to CCC for marketing assistance loans or loan deficiency payments. Heirs who succeed to the beneficial interest of a deceased producer or who assume the decedent's obligations under an existing marketing assistance loan or loan deficiency payment shall be eligible to receive marketing assistance loans and loan deficiency payments whether succession to the commodity occurs before or after harvest, shearing or slaughter so long as the heir otherwise complies with this part.

(2) A producer shall not be considered to have divested the beneficial interest in the commodity if the producer retains control, title, and risk of loss in the commodity, including the right to make all decisions regarding the tender of such commodity to CCC for marketing assistance loans or loan deficiency payments, including those cases where the producer takes either of the actions in paragraph (a)(2)(i) or (a)(2)(ii) of this section as follows:

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(i) Executes an option to purchase, whether or not a payment is made by the potential buyer for such option to purchase, for such commodity if all other eligibility requirements are met and the option to purchase contains the following:

Notwithstanding any other provision of this option to purchase, title; risk of loss; and beneficial interest in the commodity, as specified in 7 CFR 1421.6, shall remain with the producer until the buyer exercises this option to purchase the commodity. This option to purchase shall expire, notwithstanding any action or inaction by either the producer or the buyer, at the earlier of:

(1) The maturity of any Commodity Credit Corporation (CCC) loan that is secured by such commodity;

(2) The date CCC claims title to such commodity; or

(3) Such other date as provided in this option;

(ii) Enters into a contract to sell the commodity if the producer retains title, risk of loss, and beneficial interest in the commodity and the purchaser pays no advance payment amount or any incentive payment amount to enter into such contract to the producer, except as provided in part 1425 of this chapter.

(3) If marketing assistance loans and loan deficiency payments are made available to producers through an approved CMA under part 1425 of this chapter, the beneficial interest in the commodity must always have been in the producer-member who delivered the commodity to the CMA or its member CMA's, except as otherwise provided in this section. Commodities delivered to such a CMA shall not be eligible to receive marketing assistance loans or loan deficiency payments if the producer-member who delivered the commodity does not retain the right to share in the proceeds from the marketing of the commodity as provided in part 1425 of this chapter.

(b) With respect to wool, mohair, dry peas, lentils and small chickpeas produced in the 2002 crop year, producers who lost beneficial interest before October 11, 2002 are eligible for a loan deficiency payment based on the date the producer lost beneficial interest in the applicable commodity.

(c) For peanuts produced in the 2002 crop year, producers who lost bene-

ficial interest in the 2002 crop of peanuts are eligible for a loan deficiency payment based on the date the producer lost beneficial interest in the applicable commodity.

### § 1421.7 Requesting marketing assistance loans and loan deficiency payments.

(a) A producer must, unless authorized by CCC, request marketing assistance loans and loan deficiency payments at the county office that, under part 718 of this title, is responsible for administering programs for the farm on which the commodity was produced.

(b) A marketing assistance loan or loan deficiency payment may be requested in person, by mail or electronic format designated by CCC. Forms prescribed by CCC may be obtained from the USDA, Farm Service Agency Web site.

(c) To receive marketing assistance loans or loan deficiency payments for a crop of a commodity, a producer must execute a note and security agreement or loan deficiency payment application on or before the applicable final loan availability date, as follows:

(1) March 31 of the year following the year in which the following crops are normally harvested: barley, canola, flaxseed, oats, rapeseed, and wheat.

(2) May 31 of the year following the year in which the following crops are normally harvested: corn, grain sorghum, mustard seed, rice, safflower, soybeans, sunflower seed, dry peas, lentils, and small chickpeas.

(3) January 31 of the year following the year in which peanuts are normally harvested or wool and mohair are normally sheared.

(d) With respect only to loan deficiency payments for eligible loan commodities produced in the 2001 crop year, whether or not produced on a farm covered by a production flexibility contract, the applicable final loan availability for such payment is November 12, 2002.

### § 1421.8 Eligible quantity.

(a) With respect to marketing assistance loans and loan deficiency payments for:

(1) Farm-stored commodities, all determinations of weight, and quality,